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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,803

11/18/2003

Paul R. Meernik

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5204

7590

09/08/2005

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EXAMINER

KING, BRADLEY T

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/715,803	Applicant(s) MEERNIK, PAUL R.	
	Examiner Bradley T. King	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ²²25 June 2005. A 576
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-11 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-11 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6-05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The new abstract is noted.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 4 has been amended to recite "a piston slidably attached to the pin via the load initiating element". The original disclosure fails to support this limitation and its meaning is not clear as the pin 46 appears to be attached directly to the piston 50.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3683

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Richards (US# 4691889).

Richards discloses all the limitations of the instant claims including: a housing 14; a load initiating element 36 located within the housing; a spring 54 located adjacent to the load initiating element, and configured to expand in compression against the housing in response to a compressive load; and a compression member 50 slideably disposed within the housing and configured to compress the spring from a side opposite the load initiating element 36; wherein the load initiating element, spring and compression member are slideable within the housing in a first axial direction and in a second opposite axial direction in response to an axial load on the load initiating element, and lockable within the housing in the second axial direction in response to an axial load on the compression member in the second axial direction. Note that the entire assembly is slidable to at least some extent in both directions until an axial load is formed on the compression member via the threaded connection, locking the assembly. See figure 5.

Regarding claim 3, an inner tube 50 is slideably positioned within the outer tube and is configured to be able to provide a compression force to the spring from a side opposite of the load initiating element.

Regarding claims 7-8, note the spring elements 54 are both conical and wavy in shape.

Regarding claims 10-11, see column 5, lines 44-49.

Claims 1-3, 8-9, 12 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Isaacson (US#3788626).

Isaacson discloses all the limitations of the instant claims including: a housing 10; a load initiating element 46 located within the housing; a spring 37 located adjacent to the load initiating element, and configured to expand in compression against the housing; and a compression member 20 and/or 24 slideably disposed within the housing and configured to compress the spring from a side opposite the load initiating element 46; wherein the load initiating element, spring and compression member are slideable within the housing in a first axial direction and in a second opposite axial direction in response to an axial load on the load initiating element, and lockable within the housing in the second axial direction in response to an axial load on the compression member in the second axial direction. Note that an axial load which removes the preload created by the load initiating element 46 allows movement of the entire assembly in either direction.

Regarding claim 3, an inner tube 20 is slideably positioned within the outer tube.

Regarding claim 12, see figure 1.

Response to Arguments

Applicant's arguments filed 6/22/2005 have been fully considered but they are not persuasive.

Regarding the 112 1st paragraph rejection, note the new rejection above. The Examiner has reviewed the sections of the disclosure noted by Applicant, but could not find support for the particular limitation noted above.

Regarding Richards, note the rejection above.

Regarding Isaacson, the spring 37 is confined by elements 38 and 24, both of which are slidable relative to the housing. Therefore the spring 37 is slidable in the housing. Also note that the spring of the instant invention is confined similarly by elements 14 and 18. It is maintained that the rejections are proper.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BTK

 9/6/05
ROBERT A. SICONOLFI
PATENT EXAMINER